

REMARKS

Introductory Comments

Reconsideration of the above-identified application in view of the above amendments and arguments set forth is respectfully requested.

Claims 33-40 are pending and under consideration. Claim 40 is allowed. Claims 33, 35, 37 and 38 have been amended as explained below. No new matter has been added as a result of these amendments.

Applicants acknowledge the Examiner's statement that although the request to correct the inventorship, filed February 21, 2003, is deficient, the request is unnecessary because the "Corrected Declaration and Power of Attorney", filed May 15, 2000, did not result in the addition of Mark Hayden as an inventor.

Applicants acknowledge with thanks the Examiner's allowance of claim 40.

Rejection of Claims 33, 34, 37 and 38 Under 35 U.S.C. § 102(e)

Claims 33, 34, 37 and 38 are rejected under 35 U.S.C. § 102(e), as being anticipated by Au-Young *et al.*, U.S. Patent No. 6,500,938 (herein "Au-Young") or Yu *et al.*, U.S. Patent No. 5,733,748 (herein "Yu").

Specifically, the Examiner asserts that Au-Young or Yu discloses nucleic acids that contain 100% of the following SEQ ID NOS of the instant application:

- (a) SEQ ID NO: 1 (Au-Young's SEQ ID NO: 290, nucleotides 10-232),
- (b) SEQ ID NO: 8 (Au-Young's SEQ ID NO: 850, nucleotides 1-253),
- (c) SEQ ID NO: 9 (Au-Young's SEQ ID NO: 850, nucleotides 116-333),
- (d) SEQ ID NO: 10 (Au-Young's SEQ ID NO: 850, nucleotides 234-462),
- (e) SEQ ID NO: 11 (Au-Young's SEQ ID NO: 850, nucleotides 345-535),
- (f) SEQ ID NO: 12 (Au-Young's SEQ ID NO: 850, nucleotides 522-756),
- (g) SEQ ID NO: 17 (Au-Young's SEQ ID NO: 850, nucleotides 1407-1512), and

(h) SEQ ID NO: 14 (Yu's SEQ ID NO: 8, nucleotides 306-355).

The Examiner also states that the instant claims are not entitled to the effective filing date of the parent application, Serial No. 08/829,754, because not all of the SEQ ID NOS in the claims has basis in Serial No. 08/829,754.

Applicants have deleted SEQ ID NOS: 1-17 and the complements thereof from claims 33, 35, 37 and 38. The remaining sequences, SEQ ID NOS: 18-20 and the complements thereof are the full length and consensus sequences. Additionally, the phrase "and degenerate coding sequences thereof" in claim 37 is an obvious error and has been deleted. Therefore, Applicants' amendment has overcome the prior art rejection. With respect to the benefit for priority with respect to the instant SEQ ID NOS, Applicants respectfully direct the Examiner to page 10, line 15, of U.S. Serial No. 08/829,754 where it is stated that clone 608819 is shown in Figure 1. Clone 608819 is the instant SEQ ID NO: 19 (page 9, line 20 of the instant specification).

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 33, 34, 37 and 38 under 35 U.S.C. § 102(e), as being anticipated by Au-Young *et al.*, U.S. Patent No. 6,500,938 or Yu *et al.*, U.S. Patent No. 5,733,748.

Rejection of Claims 35 and 36 Under 35 U.S.C. § 103(a)

Claims 35 and 36 are rejected under 35 U.S.C. § 103(a), as being unpatentable over Au-Young *et al.*, U.S. Patent No. 6,500,938 (herein "Au-Young") or Yu *et al.*, U.S. Patent No. 5,733,748 (herein "Yu") in view of Applicant's admission, pages 35-40 in the instant application.

Specifically, the Examiner asserts that the expression of DNAs in host cells via the use of expression vectors and recombinant host cells are old and well-known.

As noted above, Applicants' amendment has overcome the prior art rejection.

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 35 and 36 under 35 U.S.C. § 103(a), as being unpatentable over Au-

Young *et al.*, U.S. Patent No. 6,500,938 or Yu *et al.*, U.S. Patent No. 5,733,748
in view of Applicant's admission, pages 35-40 in the instant application.



CONCLUSION

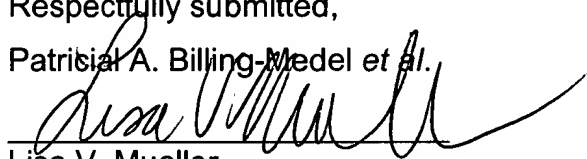
Applicants respectfully submit that the claims comply with the requirements of 35 U.S.C. Sections 102 and 103. Accordingly, a Notice of Allowance is believed in order and is respectfully requested.

Should the Examiner have any questions concerning the above, he is respectfully requested to contact the undersigned at the telephone number listed below. If the Examiner notes any further matters which the Examiner believes may be expedited by a telephone interview, the Examiner is requested to contact the undersigned.

If any additional fees are incurred as a result of the filing of this paper, authorization is given to charge deposit account no. 23-0785.

Respectfully submitted,

Patricia A. Billing-Medel et al.


Lisa V. Mueller
Registration No. 38,978
Attorney for Applicants

Wood, Phillips, Katz, Clark & Mortimer
500 West Madison Street
Suite 3800
Chicago, IL 60662-2511

Tel.: (312) 876-2109
Fax.: (312) 876-2020

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